

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DAVID SLAVEN,

Plaintiff,

v.

Case No. 08-cv-10705

Hon. Anna Diggs Taylor

Mag. Mona K. Majzoub

SPIRIT AIRLINES, INC., a Delaware Corporation,
FLIGHT ATTENDANT GRIMALDI,
FLIGHT ATTENDANT STEPHANIE BUTTERFIELD,
and CAPTAIN PAUL ANTHONY OLECHOWSKI,

Defendants.

MARTIN GARY DEUTCH, P12711

Attorney for Plaintiff

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**AMENDED
PLAINTIFF'S MOTION TO STAY DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT AND EXTEND TIME
TO FILE RESPONSE TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

NOW COMES Plaintiff, DAVID SLAVEN, by and through his attorneys, Martin Gary Deutch, PC, and requests that this Honorable Court, pursuant to Local Court Rule 7.1, extend the time for filing of Plaintiff's response to Defendants' Motion for Summary Judgment as follows:

1. Defendants' filed their Motion for Summary Judgment June 29, 2009.
2. Under Local Court Rule 7.1(d)(1)(B), Plaintiff's response is due 21 days thereafter, or July 20, 2009.
3. Plaintiff attorney was on vacation and just returned on July 13, 2009.

4. On July 7, 2009 this Court entered an order extending discovery to allow the following:

- ▶ Plaintiff has until August 15, 2009 to take the deposition of Officer Berti;
- ▶ Plaintiff has until August 15, 2009 to take the depositions of any relevant witnesses disclosed in Officer Berti's deposition;
- ▶ Defendant has until August 7, 2009 to provide the disputed portions of Pilot and Flight Attendant manuals; and,
- ▶ Plaintiff has until August 31, 2009 to complete the depositions of Defendants Grimaldi and Olechowski.

5. The Court's July 7, 2009 Order did not address the dispositive motion cut-off date of June 30, 2009.

6. Plaintiff is asking for an additional 21 days after close of discovery (to September 21, 2009) in which to prepare and file a response to Defendants' Motion for Summary Judgment.

7. Plaintiff sought concurrence with this motion on July 14, 2009 and concurrence was denied.

WHEREFORE, Plaintiff, DAVID SLAVEN, prays that this Honorable Court extend the time for filing a response to Defendants' Motion for Summary Judgment to twenty-one (21) days after the close of discovery, to September 21, 2009.

Respectfully submitted,

s/ Martin Gary Deutch

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DATED: July 15, 2009
mrm

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**BRIEF IN SUPPORT OF AMENDED MOTION TO STAY DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT AND EXTEND TIME
TO FILE RESPONSE TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

STATEMENT OF QUESTIONS PRESENTED

- I. Whether this Court should grant Plaintiff's Motion To Stay Defendants' Motion For Summary Judgment And Extend Time To file Response To Defendants' Motion For Summary Judgment

Plaintiff answers: Yes

STATEMENT OF CONTROLLING/MOST APPROPRIATE AUTHORITY

Pursuant to E.D. Mich L.R. 7.1(c)(2), Plaintiff states that the controlling/most appropriate authorities justifying his request to stay Defendants' Motion For Summary Judgment and extend time to file a response to Defendants' Motion For Summary Judgment are:

E.D. Mich L.R. 7.1

E.D. Mich L.R. 7.1(d)(1)(B)

E.D. Mich L.R. 7.1(f)

SUMMARY OF ARGUMENT

Plaintiff relies upon LR 7.1 which allows the Court discretion to extend the time in which to respond to Summary Judgment Motions. Under LR 7.1(f) the Court may do so ex parte.

Plaintiff's request is not for delay but to properly respond to Defendants' motion, which has been difficult due to summer vacations and pending discovery issues. On July 7, 2009 this Court granted Plaintiff's motion to compel and entered an Order extending discovery to August 15, 2009 for the taking of Officer Berti's deposition and August 31, 2009 to complete the depositions of Defendants Grimaldi and Olechowski.

Plaintiff cannot properly respond to Defendant's Motion without the additional discovery ordered by the Court.

CONCLUSION

WHEREFORE, Plaintiff, DAVID SLAVEN, prays that this Honorable Court extend the time for filing a response to Defendants' Motion for Summary Judgment to twenty-one (21) days after the close of discovery, to September 21, 2009.

Respectfully submitted,

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PROOF OF SERVICE

I hereby certify that on July 15, 2009, I electronically filed Amended Plaintiff's Motion To Stay Defendants' Motion For Summary Judgment And Extend Time To File Response To Defendants' Motion For Summary Judgment and Brief In Support with the Clerk of the Court using ECF system which will send notification of such filing to the following:

Scott R. Torpey

s/ Martin Gary Deutch

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